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OFFICE OF PETITIONS

DECISION ON PETITION

In re Application of
Spears et al.
Application No. 09/632,530
Filed: August 4, 2000
Attorney Docket No. PA074-US

This is a decision on the petition under 37 CFR 1.137(a), filed March 24, 2005, to revive the above-identified application.

On December 27, 2004, the Office mailed a Notice of Non-Compliant Amendment, stating that the document filed on October 7, 2004, was considered non-compliant because it failed to meet the requirements of 37 CFR 1.121. The Notice set a time period of one-month from the mailing date of the Notice to respond. Extensions of the time period were available under 37 CFR 1.136(a).

On January 4, 2005, petitioners submitted a "Response to Notice of Non-Compliant Amendment (37 CFR 1.121)." In response, on March 15, 2005, an Office action was mailed, which indicated that the reply filed on January 4, 2005, was not fully responsive to the prior the Office Action. The Office Action stated that the period for reply set forth in the prior Office Action had expired and that the application would become abandoned unless petitioners corrected the deficiency and obtained an extension of time to respond. Therefore, to avoid abandonment of the application, petitioners have until June 27, 2005, to correct the deficiency and submit a request for an extension of time for response within the fifth month.

On March 24, 2005, petitioners submitted a petition to revive under 37 CFR 1.137(a), a Supplemental Response, and an authorization to charge the Deposit Account for any necessary fees. However, the Office notes that the application is currently not abandoned because petitioners have submitted the required response within the extendable period of time as set forth in the Notice of Non-Compliant Amendment of December 27, 2004. The Notice set a one-month period of time to respond. The Notice permitted petitioners to extend the period for five more months (June 27, 2005). Accordingly, the petition is **dismissed** as involving a moot issue.

The petition will be treated as a request for an extension of time for response within the second month. The application will remain in its pending status. The \$225.00 extension of time fee will be charged to Deposit Account No. 50-1769, as authorized in the Fee Transmittal submitted on March 24, 2005.

This matter is being referred to Technology Center Art Unit 1724 for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

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